



House of Representatives

General Assembly

File No. 664

January Session, 2013

House Bill No. 6448

House of Representatives, May 1, 2013

The Committee on Judiciary reported through REP. FOX, G. of the 146th Dist., Chairperson of the Committee on the part of the House, that the bill ought to pass.

AN ACT CONCERNING PROBATE FEES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 45a-106 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective January 1, 2014*):

3 The basic fees payable to [courts of] probate courts for any
4 proceeding other than in connection with the settlement of the estate of
5 a deceased person or periodic accounts of trustees, guardians,
6 conservators or other fiduciaries shall be as follows:

7 (1) Except for such proceedings for which basic fees are specified in
8 subdivision (4), (5) or (6) of this section or are otherwise specified or
9 exempted in section 45a-111, as amended by this act, or elsewhere in
10 the general statutes, there shall be payable to the [Court of] Probate
11 Court with respect to each application, petition or motion filed with
12 the court to commence a matter before it, an entry fee of one hundred
13 fifty dollars which shall be paid by the person making the application,
14 petition or motion.

15 (2) On each matter commenced by the court on its own motion, an
16 entry fee of one hundred fifty dollars shall be payable by an interested
17 party as determined by the court.

18 (3) For the purposes of establishing fees payable to [courts of]
19 probate courts under this section, all applications, petitions and
20 motions filed and proceedings thereunder, in connection with a matter
21 which has been entered as above, which are necessary to enter a final
22 decree in and are incidental to the action of the court being sought in
23 the matter so entered shall be covered by the entry fee and by any
24 additional fee or expense under subdivision (6) of this section that may
25 have become payable in such matter. No additional fees under this
26 section shall be charged for any such incidental applications, petitions
27 or motions, except that once a final decree is entered in any matter and,
28 thereafter, additional action or actions are sought in the court in
29 connection therewith, such additional action or actions shall be treated
30 as a new matter under this section.

31 (4) For proceedings brought under section 46b-30, the fee shall be
32 twenty-five dollars.

33 (5) For filing a will in the Probate Court, the fee shall be five dollars.
34 For filing any other document in the [probate court] Probate Court
35 under the provisions of any statute if the court is not required to take
36 any action, the fee shall be twenty-five dollars, in addition to any
37 applicable recording fee. Any fee under this subdivision shall be
38 payable by the person filing such will or document.

39 (6) A fee of fifty dollars, plus the actual expenses of rescheduling the
40 adjourned hearing that are payable under section 45a-109, as amended
41 by this act, shall be payable to the court by any party who requests an
42 adjournment of a scheduled hearing or whose failure to appear
43 necessitates an adjournment, except that the court, for cause shown,
44 may waive either the fifty-dollar fee or the actual expenses of
45 rescheduling the adjourned hearing, or both.

46 (7) A fee of two hundred fifty dollars shall be payable to the Probate

47 Court by a petitioner filing a motion to permit an attorney who has not
 48 been admitted as an attorney under the provisions of section 51-80 to
 49 appear pro hac vice in a matter in the Probate Court.

50 Sec. 2. Section 45a-107 of the general statutes is repealed and the
 51 following is substituted in lieu thereof (*Effective January 1, 2014*):

52 (a) The basic fees for all proceedings in the settlement of the estate
 53 of any deceased person, including succession and estate tax
 54 proceedings, shall be in accordance with the provisions of this section.

55 (b) For estates in which proceedings were commenced on or after
 56 January 1, 2011, fees shall be computed as follows:

57 (1) The basis for fees shall be (A) the greatest of (i) the gross estate
 58 for succession tax purposes, as provided in section 12-349, (ii) the
 59 inventory, including all supplements thereto, (iii) the Connecticut
 60 taxable estate, as defined in section 12-391, or (iv) the gross estate for
 61 estate tax purposes, as provided in chapters 217 and 218, except as
 62 provided in subdivisions (5) and (6) of this subsection, plus (B) all
 63 damages recovered for injuries resulting in death, minus any hospital
 64 and medical expenses for treatment of such injuries resulting in death,
 65 minus any hospital and medical expenses for treatment of such injuries
 66 that are not reimbursable by medical insurance, and minus the
 67 attorney's fees and other costs and expenses of recovering such
 68 damages. Any portion of the basis for fees that is determined by
 69 property passing to the surviving spouse shall be reduced by fifty per
 70 cent. Except as provided in subdivisions (3) and (4) of this subsection,
 71 in no case shall the minimum fee be less than twenty-five dollars.

72 (2) Except as provided in subdivisions (3) and (4) of this subsection,
 73 fees shall be assessed in accordance with the following table:

T1	Basis for Computation	
T2	Of Fees	Total Fee
T3	0 to \$500	\$25

T4	\$501 to \$1,000	\$50
T5	\$1,000 to \$10,000	\$50, plus 1% of all
T6		in excess of \$1,000
T7	\$10,000 to \$500,000	\$150, plus .35% of all
T8		in excess of \$10,000
T9	\$500,000 to \$4,754,000	\$1,865, plus .25% of all
T10		in excess of \$500,000
T11	\$4,754,000 and over	\$12,500

74 (3) Notwithstanding the provisions of subdivision (1) of this
 75 subsection, if the basis for fees is less than ten thousand dollars and a
 76 full estate is opened, the minimum fee shall be one hundred fifty
 77 dollars.

78 (4) In any matter in which the Commissioner of Administrative
 79 Services is the legal representative of the estate pursuant to section 4a-
 80 16, the fee shall be the lesser of (A) the amount calculated under
 81 subdivisions (1) and (2) of this subsection, or (B) the amount collected
 82 by the Commissioner of Administrative Services after paying the
 83 expense of funeral and burial in accordance with section 17b-84.

84 (5) In the case of a deceased person who was domiciled in this state
 85 on the date of his or her death, the gross estate for estate tax purposes
 86 shall, for the purpose of determining the basis for fees pursuant to
 87 subdivision (1) of this subsection, be reduced by the fair market value
 88 of any real property or tangible personal property of the deceased
 89 person situated outside of this state.

90 (6) In the case of a deceased person who was not domiciled in this
 91 state on the date of his or her death but who owned real property or
 92 tangible personal property situated in this state on the date of his or
 93 her death, only the fair market value of such real property or tangible
 94 personal property situated in this state shall be included in the basis
 95 for fees pursuant to subdivision (1) of this subsection.

96 (c) For estates in which proceedings were commenced on or after

97 April 1, 1998, and prior to January 1, 2011, fees shall be computed as
98 follows:

99 (1) The basis for fees shall be (A) the gross estate for succession tax
100 purposes, as provided in section 12-349, the inventory, including all
101 supplements thereto, the Connecticut taxable estate, as defined in
102 section 12-391, or the gross estate for estate tax purposes, as provided
103 in chapters 217 and 218, whichever is greater, plus (B) all damages
104 recovered for injuries resulting in death, minus any hospital and
105 medical expenses for treatment of such injuries resulting in death,
106 minus any hospital and medical expenses for treatment of such injuries
107 that are not reimbursable by medical insurance and minus the
108 attorney's fees and other costs and expenses of recovering such
109 damages. Any portion of the basis for fees that is determined by
110 property passing to the surviving spouse shall be reduced by fifty per
111 cent. Except as provided in subdivision (3) of this subsection, in no
112 case shall the minimum fee be less than twenty-five dollars.

113 (2) Except as provided in subdivisions (3) and (4) of this subsection,
114 fees shall be assessed in accordance with the following table:

T12	Basis for Computation	
T13	Of Fees	Total Fee
T14	0 to \$500	\$25
T15	\$501 to \$1,000	\$50
T16	\$1,000 to \$10,000	\$50, plus 1% of all in excess of \$1,000
T17		\$150, plus .35% of all in excess of \$10,000
T18	\$10,000 to \$500,000	
T19		\$1,865, plus .25% of all in excess of \$500,000
T20	\$500,000 to \$4,754,000	
T21		\$12,500
T22	\$4,754,000 and over	

115 (3) Notwithstanding the provisions of subdivision (1) of this

116 subsection, if the basis for fees is less than ten thousand dollars and a
 117 full estate is opened, the minimum fee shall be one hundred fifty
 118 dollars.

119 (4) In estates where the gross taxable estate is less than six hundred
 120 thousand dollars, in which no succession tax return is required to be
 121 filed, a probate fee of .1 per cent shall be charged against non-solely-
 122 owned real estate, in addition to any other fees computed under this
 123 section.

124 [(d) For estates in which proceedings were commenced on or after
 125 July 1, 1993, and prior to April 1, 1998, costs shall be computed as
 126 follows:

127 (1) The basis for costs shall be: (A) The gross estate for succession
 128 tax purposes, as provided in section 12-349, or the inventory, including
 129 all supplements thereto, whichever is greater, plus (B) all damages
 130 recovered for injuries resulting in death minus any hospital and
 131 medical expenses for treatment of such injuries that are not
 132 reimbursable by medical insurance and minus the attorney's fees and
 133 other costs and expenses of recovering such damages. Any portion of
 134 the basis for costs that is determined by property passing to the
 135 surviving spouse shall be reduced by fifty per cent. Except as provided
 136 in subdivision (3) of this subsection, in no case shall the minimum cost
 137 be less than ten dollars.

138 (2) Except as provided in subdivision (3) of this subsection, costs
 139 shall be assessed in accordance with the following table:

T23	Basis for Computation	
T24	Of Costs	Total Cost
T25	0 to \$1,000	\$10.00
T26	\$1,000 to \$10,000	\$10, plus 1% of all
T27		in excess of \$1,000
T28	\$10,000 to \$500,000	\$100, plus .30% of all

T29		in excess of \$10,000
T30	\$500,000 to \$4,715,000	\$1,570, plus .20% of all
T31		in excess of \$500,000
T32	\$4,715,000 and over	\$10,000

140 (3) If the basis for costs is less than ten thousand dollars and a full
 141 estate is opened, the minimum cost shall be one hundred dollars.

142 (e) For estates in which proceedings were commenced on or after
 143 July 1, 1983, and prior to July 1, 1993, costs shall be computed as
 144 follows:

145 (1) The basis for costs shall be: (A) The gross estate for succession
 146 tax purposes, as provided in section 12-349, minus one-third of the first
 147 fifty thousand dollars of any part of the gross estate for succession tax
 148 purposes that passes other than by will or under the laws of intestacy,
 149 plus (B) all damages recovered for injuries resulting in death minus
 150 any hospital and medical expenses for treatment of such injuries that
 151 are not reimbursable by medical insurance and minus the attorney's
 152 fees and other costs and expenses of recovering such damages.

153 (2) Costs shall be assessed in accordance with the following table:

T33	Basis for Computation	
T34	Of Costs	Total Cost
T35	0 to \$1,000	\$10.00
T36	\$1,000 to \$10,000	\$10, plus 1% of all
T37		in excess of \$1,000
T38	\$10,000 to \$100,000	\$100, plus .30% of all
T39		in excess of \$10,000
T40	\$100,000 to \$200,000	\$370, plus .25% of all
T41		in excess of \$100,000
T42	\$200,000 to \$500,000	\$620, plus .2% of all
T43		in excess of \$200,000

T44	\$500,000 to \$1,000,000	\$1,220, plus .15% of all
T45		in excess of \$500,000
T46	\$1,000,000 to \$5,000,000	\$1,970, plus .125% of all
T47		in excess of \$1,000,000
T48	\$5,000,000 and over	\$6,970, plus .1% of all
T49		in excess of \$5,000,000]

154 [(f)] (d) A fee of fifty dollars shall be payable to the court by any
 155 creditor applying to the [Court of] Probate Court pursuant to section
 156 45a-364 or 45a-401 for consideration of a claim. If such claim is allowed
 157 by the court, the court may order the fiduciary to reimburse the
 158 amount of such fee from the estate.

159 [(g)] (e) A fee of fifty dollars, plus the actual expenses of
 160 rescheduling the adjourned hearing that are payable under section
 161 45a-109, as amended by this act, shall be payable to the court by any
 162 party who requests an adjournment of a scheduled hearing or whose
 163 failure to appear necessitates an adjournment, except that the court, for
 164 cause shown, may waive either the fifty-dollar fee or the actual
 165 expenses of rescheduling the adjourned hearing, or both.

166 (f) A fee of two hundred fifty dollars shall be payable to the Probate
 167 Court by a petitioner filing a motion to permit an attorney who has not
 168 been admitted as an attorney under the provisions of section 51-80 to
 169 appear pro hac vice in a matter in the Probate Court.

170 [(h) In] (g) Except as provided in subsections (d), (e) and (f) of this
 171 section, in no event shall any fee exceed ten thousand dollars for any
 172 estate in which proceedings were commenced prior to April 1, 1998,
 173 and twelve thousand five hundred dollars for any estate in which
 174 proceedings were commenced on or after April 1, 1998.

175 [(i)] (h) In the case of decedents who die on or after January 1, 2011:

176 (1) Any fees assessed under this section that are not paid within
 177 thirty days of the date of an invoice from the [court of probate] Probate

178 Court shall bear interest at the rate of one-half of one per cent per
179 month or portion thereof until paid;

180 (2) If a tax return or a copy of a tax return required under
181 subparagraph (D) of subdivision (3) of subsection (b) of section 12-392
182 is not filed with a [court of] probate court by the due date for such
183 return or copy under subdivision (1) of subsection (b) of section 12-392
184 or by the date an extension under subdivision (4) of subsection (b) of
185 section 12-392 expires, the fees that would have been due under this
186 section if such return or copy had been filed by such due date or
187 expiration date shall bear interest at the rate of one-half of one per cent
188 per month or portion thereof from the date that is thirty days after
189 such due date or expiration date, whichever is later, until paid. If a
190 return or copy is filed with a [court of] probate court on or before such
191 due date or expiration date, whichever is later, the fees assessed shall
192 bear interest as provided in subdivision (1) of this subsection;

193 (3) A [court of] probate court may extend the time for payment of
194 any fees under this section, including interest, if it appears to the court
195 that requiring payment by such due date or expiration date would
196 cause undue hardship. No additional interest shall accrue during the
197 period of such extension. A [court of] probate court may not waive
198 interest outside of any extension period;

199 (4) The interest requirements in subdivisions (1) and (2) of this
200 subsection shall not apply if:

201 (A) The basis for fees for the estate does not exceed forty thousand
202 dollars; or

203 (B) The basis for fees for the estate does not exceed five hundred
204 thousand dollars and any portion of the property included in the basis
205 for fees passes to a surviving spouse.

206 Sec. 3. Section 45a-108 of the general statutes is repealed and the
207 following is substituted in lieu thereof (*Effective January 1, 2014*):

208 (a) (1) Except with respect to a decedent's estate, the basic fees for all

209 proceedings in connection with allowance and settlement of a periodic
 210 or other account, after notice and hearing, regardless of the date of
 211 origin of the estate in which such account is filed, shall be in
 212 accordance with the following schedule:

T50	If the [book] <u>fiduciary acquisition</u> value or	Fee
T51	market value or receipts, whichever is larger, is:	
T52	Less than \$25,000	\$50.00
T53	\$25,000 to \$375,000	.20% thereof
T54	\$375,000 and over	\$750.00

213 (2) If more than one account is the subject of a hearing, the fees shall
 214 be based on the values in the most recent account being heard.

215 (b) For the purposes of this section, "fiduciary acquisition value" has
 216 the meaning set forth in the rules of procedure adopted under section
 217 45a-78.

218 ~~[(b)]~~ (c) A fee of fifty dollars, plus the actual expenses of
 219 rescheduling the adjourned hearing that are payable under section
 220 45a-109, as amended by this act, shall be payable to the court by any
 221 party who requests an adjournment of a scheduled hearing or whose
 222 failure to appear necessitates an adjournment, except that the court, for
 223 cause shown, may waive either the fifty-dollar fee or the actual
 224 expenses of rescheduling the adjourned hearing, or both.

225 (d) A fee of two hundred fifty dollars shall be payable to the Probate
 226 Court by a petitioner filing a motion to permit an attorney who has not
 227 been admitted as an attorney under the provisions of section 51-80 to
 228 appear pro hac vice in a matter in the Probate Court.

229 Sec. 4. Section 45a-105 of the general statutes is repealed and the
 230 following is substituted in lieu thereof (*Effective January 1, 2014*):

231 The fees charged by [courts of] probate courts shall be uniform for
 232 all of the probate districts established by law. Fees shall be assessed in

233 accordance with sections 45a-106 to 45a-112, inclusive, as amended by
234 this act.

235 Sec. 5. Section 45a-109 of the general statutes is repealed and the
236 following is substituted in lieu thereof (*Effective January 1, 2014*):

237 In addition to the basic fees specified in sections 45a-106 to 45a-108,
238 inclusive, as amended by this act, the following expenses shall be
239 payable to the [courts of probate] Probate Courts: (1) For recording
240 each page or fraction thereof after the first five pages of any one
241 document, three dollars; (2) for each notice in excess of two with
242 respect to any hearing or continued hearing, two dollars; (3) for any
243 expenses incurred by the [court of probate] Probate Court for
244 newspaper publication of notices, certified or registered mailing of
245 notices, or for service of process or notice, the actual amount of the
246 expenses so incurred; (4) for providing copies of any document from a
247 file in the court of any matter within the jurisdiction of the court, five
248 dollars for a copy of any such document up to five pages in length and
249 one dollar per copy for each additional page or fractional part thereof
250 as the case may be, except that there shall be furnished without charge
251 to the fiduciary or, if none, to the petitioner with respect to any probate
252 matter one uncertified copy of each decree, certificate or other court
253 order setting forth the action of the court on any proceeding in such
254 matter; (5) for certifying copies of any document from a file in the
255 court of any matter before the court, five dollars per each copy certified
256 for the first two pages of a document, and two dollars for each copy
257 certified for each page after the second page of such document, except
258 that no charge shall be made for any copy certified or otherwise that
259 the court is required by statute to make; (6) for retrieval of a file not
260 located on the premises of the court, the actual expense or ten dollars,
261 whichever is greater; (7) for copying probate records through the use
262 of a hand-held scanner, as defined in section 1-212, twenty dollars per
263 day; and (8) for providing a digital copy of an audio recording of a
264 hearing, twenty-five dollars.

265 Sec. 6. Subsections (c) and (d) of section 45a-111 of the general

266 statutes are repealed and the following is substituted in lieu thereof
267 (*Effective January 1, 2014*):

268 (c) If a petitioner or applicant to a [court of] probate court claims
269 that unless his or her obligation to pay the fees and the necessary
270 expenses of the action, including the expense of service of process, is
271 waived, such petitioner or applicant will be deprived by reason of his
272 or her indigency of his or her right to bring a petition or application to
273 such court or that he or she is otherwise unable to pay the fees and
274 necessary expenses of the action, he or she may file with the clerk of
275 such [court of] probate court an application for waiver of payment of
276 such fees and necessary expenses. Such application shall be signed
277 under penalty of false statement, shall state the applicant's financial
278 circumstances, and shall identify the fees and expenses sought to be
279 waived and the approximate amount of each. If the court finds that the
280 applicant is unable to pay such fees and expenses, it shall order such
281 fees and expenses waived. If such expenses include the expense of
282 service of process, the court, in its order, shall indicate the method of
283 service authorized and the expense of such service shall be paid from
284 funds appropriated to the Judicial Department, except that, if funds
285 have not been included in the budget of the Judicial Department for
286 such expenses, such expenses shall be paid from the Probate Court
287 Administration Fund.

288 (d) The court may, in its discretion, postpone payment of any entry
289 fee or other fee or expense due under sections 45a-106 to 45a-112,
290 inclusive, as amended by this act, and enter any matter if it appears to
291 the court that to require such entry fee or other fee or expense to
292 accompany submission of the matter would cause undue delay or
293 hardship, but in such case the applicant, petitioner or moving party
294 shall be liable for the entry fee and all other fees and expenses upon
295 receipt of an invoice therefor from the court. [of probate.]

296 Sec. 7. Section 45a-112 of the general statutes is repealed and the
297 following is substituted in lieu thereof (*Effective January 1, 2014*):

298 When the state or any of its agencies is an applicant, petitioner or

299 moving party commencing a matter in a [court of] probate court, or is
 300 otherwise liable for the fees or expenses under sections 45a-106 to 45a-
 301 112, inclusive, as amended by this act, the court shall accept such
 302 matter without the entry fee accompanying the filing thereof, and shall
 303 bill the entry fee or other fee or expense to the appropriate agency for
 304 subsequent payment, which payment shall be due and payable upon
 305 receipt of such bill.

306 Sec. 8. Section 45a-113a of the general statutes is repealed and the
 307 following is substituted in lieu thereof (*Effective January 1, 2014*):

308 Whenever a probate court determines that a refund is due an
 309 applicant, petitioner, moving party or other person for any
 310 overpayment of costs, fees, charges or expenses incurred under the
 311 provisions of sections 45a-106 to 45a-112, inclusive, as amended by this
 312 act, the Probate Court Administrator shall, upon receipt of certification
 313 of such overpayment by the [court of probate] probate court that
 314 issued the invoice for such costs, fees, charges or expenses, cause a
 315 refund of such overpayment to be issued from the Probate Court
 316 Administration Fund.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>January 1, 2014</i>	45a-106
Sec. 2	<i>January 1, 2014</i>	45a-107
Sec. 3	<i>January 1, 2014</i>	45a-108
Sec. 4	<i>January 1, 2014</i>	45a-105
Sec. 5	<i>January 1, 2014</i>	45a-109
Sec. 6	<i>January 1, 2014</i>	45a-111(c) and (d)
Sec. 7	<i>January 1, 2014</i>	45a-112
Sec. 8	<i>January 1, 2014</i>	45a-113a

JUD *Joint Favorable*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note**State Impact:**

Agency Affected	Fund-Effect	FY 14 \$	FY 15 \$
Judicial Dept.	GF - Revenue Gain	6,250	12,500

Municipal Impact: None

Explanation

The bill results in a Judicial Department General Fund revenue gain of \$6,250 in FY 14 and \$12,500 in FY 15 from the establishment of a \$250 fee for motions to allow an attorney not licensed in the state to appear pro hac vice in a probate court matter. This estimate assumes 25 such motions in six months of FY 14 (the bill is effective 1/1/14) and 50 motions in FY 15.

The bill also makes changes to certain fee terminology, excludes certain fees from a \$12,500 cap on total fees for settling an estate and deletes obsolete provisions, all of which do not result in a fiscal impact to the Judicial Department.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of motions to allow an attorney not licensed in the state to appear pro hac vice in a probate court matter.

OLR Bill Analysis**HB 6448*****AN ACT CONCERNING PROBATE FEES.*****SUMMARY:**

This bill establishes a \$250 fee for motions to allow an attorney not licensed in the state to appear "*pro hac vice*" in a probate court matter (§§ 1-3). Probate court rules allow a state-licensed attorney to make a motion to allow an attorney licensed in another jurisdiction to appear in a probate matter in Connecticut for special and infrequent occasions, under certain conditions.

The bill updates terminology for calculating fees for periodic accounts, by referring to "fiduciary acquisition value" rather than "book value" (§ 3). It incorporates the definition of "fiduciary acquisition value" from the probate court rules.

The bill excludes certain fees (including the *pro hac vice* fee) from the \$12,500 cap on total fees for settling an estate (§ 2).

It deletes obsolete provisions regarding estate settlement fees for proceedings begun before April 1, 1998 (§ 2).

The bill also makes technical changes.

EFFECTIVE DATE: January 1, 2014

PERIODIC ACCOUNTS

Under current law, the fees for probate proceedings concerning the allowance and settlement of periodic and other accounts, other than those dealing with a decedent's estate, are based on the greater of the book value, market value, or receipts involved. The bill substitutes "fiduciary acquisition value" for book value and provides that fiduciary acquisition value has the meaning set forth in the probate

rules of procedure (see BACKGROUND).

BACKGROUND

Fiduciary Acquisition Value

On November 7, 2012, the Supreme Court adopted the most recent revision to the probate rules, to take effect July 1, 2013. Under § 36.14 of the rules, an asset's fiduciary acquisition value is:

1. for a decedent's estate, the asset's fair market value on the date of death;
2. for a trust, the asset's fair market value on the date of the testator's or settlor's death, or on any other basis for value that the court directs after considering the trust's nature and the manner in which it was funded; and
3. for a conservatorship, guardianship, or other estate not specified in the rule, the asset's fair market value on the date of appointment of the first fiduciary.

Under the rule, if a fiduciary purchases an asset during the course of administration, its fiduciary acquisition value is its purchase price plus expenses directly related to the purchase.

The rule provides that an asset's fiduciary acquisition value does not change based on unrealized gain or loss owing to market value fluctuations. But the value must be adjusted to reflect transactions in which (1) additional investments, such as capital improvements, are made in an asset and (2) some of the original investment is returned to the fiduciary, such as the sale of a partial interest in an asset or the receipt of principal payments on a promissory note.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable

Yea 44 Nay 0 (04/12/2013)